

However, to be fully responsive to the requirement, Applicant elects compounds exhibiting AAT-like activity and Retrovir.

Applicant respectfully submits that the examination of the full scope of claims 40-42 would not be a serious burden on the Examiner. *See* M.P.E.P. § 803.02. This is particularly so because the Examiner has not provided reasons why the examination of all the species would be a serious burden. According to the M.P.E.P., the Examiner must provide reasons and/or examples to support conclusions. Yet the examiner has not provided any reasons that a burden, let alone a serious burden, exists. Applicant therefore respectfully requests that this election requirement be withdrawn and that all the claimed species be examined in this application.

In addition, Applicant is confused by the requirement to elect “a specific compound (encompassed by Group 13) which exhibits AAT activity or AAT-like activity.” There are no claims in Group 13 which recite any more specific compound than compounds which exhibit AAT activity or compounds which exhibit AAT-like activity. Accordingly, no more specific choice can be made. Thus, it appears that the choice is merely between “compounds exhibiting AAT activity” and “compounds exhibiting AAT-like activity” and thus Applicant has been fully responsive in selecting “compounds exhibiting AAT-like activity.”

Further, with respect to the requirement to elect between compounds exhibiting AAT activity and compounds exhibiting AAT-like activity, Applicant notes that M.P.E.P. § 809.02(d) states: “Where only generic claims are presented, no restriction can be required except in those applications where the generic claims recite such a multiplicity of species that an unduly extensive and burdensome search is necessary.” In this case, there is only a generic claim reciting “compounds exhibiting AAT or AAT-like activity” and no recitation of any species. Accordingly, the election requirement is not proper because a recitation of two choices (i.e.,

compounds exhibiting AAT activity and compounds exhibiting AAT-like activity) is not "such a multiplicity of species that an unduly extensive and burdensome search is necessary."

CONCLUSION

In view of the above, Applicant respectfully requests withdrawal of the election requirement and the examination of all species together.


AUTHORIZATION

As this response is filed within the shortened statutory period, no fee for extension of time is believed due. The Commissioner, however, is hereby authorized to charge any fees which may be required for this Response, including fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0436.

Respectfully submitted,

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